

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FRANSISCO QUERENDONGO,

Petitioner,

v.

FRANK TENNIS, et al.,

Respondents.

Civil Action No. 06-2925

MEMORANDUM/ORDER

July 23, 2007,

On July 5, 2006, Fransisco Querendongo, a Pennsylvania prisoner serving a life sentence for first-degree murder, filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition was later supplemented to add additional claims. After briefing, the case was referred to United States Magistrate Judge Elizabeth T. Hey on April 18, 2007, for a report and recommendation.¹ On June 18, 2007, Magistrate Judge Hey filed a report analyzing petitioner's claims, along with her recommendation that the

¹ The court notes that, in a April 26, 2007 letter to the court, petitioner requested permission from the court to file a response to the Commonwealth's reply to his petition. Such permission is not required under the Rules Governing Section 2254 Cases in the United States District Court, Rule 5(e). At any rate, petitioner filed his response on May 25, 2007, *see* Docket No. 23, and the response was considered by Magistrate Judge Hey, *see* R & R at 5, and by this court.

petition be denied and that a certificate of appealability not issue. After review pursuant to 28 U.S.C. 636(b)(1) and *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987),² and for the reasons stated in Magistrate Judge Hey's report, it is hereby **ORDERED** that:

1. The Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey (Docket No. 24) is **APPROVED** and **ADOPTED**;
2. Claims one through four of the petition, which are procedurally defaulted, are **DISMISSED**, and the remainder of the petition is **DENIED**;
3. The case is **DISMISSED WITH PREJUDICE**; and
4. There being no basis, under 28 U.S.C. § 2253, for a certificate of appealability of this Order, such certificate shall not issue.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.

² In *Henderson*, the Third Circuit explained that the “better practice” is for a district judge to give “reasoned consideration” to a magistrate judge’s report and recommendation sufficient “to make an informed, final determination,” even where no objections to the report and recommendation have been filed. 812 F.2d at 878.